United States District Court
Southern District of Texas
ENTERED
May 05, 2017
David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TIMES CONTENT LIMITED, Plaintiff, v. DOE 1 d/b/a smartcric.com, DOE 2 d/b/a cricketdlive.com, and DOES 3-10, Defendants.	§ § § § § § § §	CIVIL ACTION NO. H-17-1287

ORDER OF PRELIMINARY INJUNCTION

This matter came before the Court on Plaintiff Times Content Limited's ("TCL") Motion for Temporary Restraining Order and to Show Cause why a Preliminary Injunction Should Not Issue (Document No. 4), and hearing on Preliminary Injunction as ordered by the Court on April 28, 2017 (Document No. 7). All affected parties have received reasonable notice of this motion and today's hearing. The Court has considered the papers submitted by TCL, conducted the preliminary injunction hearing on this day (the "Hearing"), and, based on a preponderance of the evidence, GRANTS TCL this preliminary injunction.

The Court finds that TCL has satisfied the requirements for a preliminary injunction. TCL demonstrated that it is likely to succeed on the merits of its claims. TCL established that it owns the exclusive rights to, among other things, distribute and publicly perform the coverage of the 2017 Indian Premier League ("2017 IPL") within the United States by means including Internet, Over-The-Top ("OTT"), Internet protocol television ("IPTV"), satellite, cable, and mobile devices. TCL properly served Defendants with Advance Notices of Potential Infringement required by 17 U.S.C. § 411(c) and 37 C.F.R. § 201.22 and sent Defendants at least nine notices of infringement between April 7, 2017 and April 25, 2017. TCL also served Defendants with a copy of its complaint and this motion on April 26, 2017, and notice of the Hearing and complaint on April 28, 2017. To date, TCL has not received any response to its notices or cease and desist letters and

Defendants continue to infringe TCL's exclusive rights in the 2017 IPL. Defendants have taken efforts to evade the entry of an injunction by the Court, including redirecting www.smartcric.com www.smartcric.eu and redirecting www.crickethdlive.com to www.crickethdlive.pw (collectively, the "Websites") and utilizing additional foreign service providers.

TCL presented compelling evidence that Defendants have displayed, distributed, and publicly performed and intend to continue displaying, distributing and publicly performing the 2017 IPL through the Websites. TCL provided screenshots in which Defendants represent that they intend to provide unauthorized online streams of the live 2017 IPL as it is initially transmitted. TCL also presented evidence that Defendants have displayed, distributed, and publicly performed prior 2017 IPL matches. Defendants have not responded to TCL's Advance Notices of Potential Infringement, cease and desist letters, or notices concerning the filing of its complaint, this motion, or the Hearing. If Defendants continue with their anticipated unauthorized streams of the 2017 IPL, they would violate exclusive rights owned by TCL, including without limitation the exclusive right to distribute and/or publicly perform.

TCL presented evidence that Defendants rely on various third party service providers to keep the Websites online. These service providers include but are not limited to VeriSign, Inc., Cloudflare, Inc., Enom, Inc., Internet Domain Service BS Corp., Mikro VPS Kft., Contabo GmbH, Whoisguard, Inc., WhoisPrivacy Corp., VZW European Registry For Internet Domains ("EURid"), PW Registry Corporation, Tucows Inc., TLD Registrar Solutions Ltd., and IceNetworks Ltd. (d/b/a OrangeWebsite.com). TCL served copies of the complaint and notice of the Hearing on each of the foregoing service providers.

TCL established that it will suffer irreparable harm in the absence of immediate relief. Among other things, Defendants' continued infringement will strip TCL of the critical rights of first distribution and public performance of valuable live sporting events, interfere with TCL's relationships with third parties, likely damage TCL's goodwill among consumers, and deprive TCL of revenue that will be difficult or impossible to calculate, but is likely in excess of any amount that Defendants could repay to TCL in damages even if the amount could be calculated.

The balance of equities also tips sharply in TCL's favor. The Court is not aware of any legitimate interest of Defendants that would be damaged by TCL's requested injunction.

An injunction is also in the public interest because it will effectuate the policy and purpose of the Copyright Act to protect intellectual property rights and to incentivize the creation of copyrightable works.

The Court finds that no bond is required in this case because there is no realistic likelihood that Defendants will be harmed by TCL's requested injunction.

The Court also finds that *ex parte* relief is appropriate in this case because TCL has acted expeditiously and has established that it will suffer irreparable harm if its motion is heard on the normal motion calendar. TCL also gave Defendants notice of its complaint, its motion, and the Hearing, giving them an opportunity to be heard.

Accordingly, the Court, pursuant to 17 U.S.C. §§ 502 and 512(j) and the Court's equitable powers, hereby ORDERS as follows:

1. Each and every one of the Defendants and their agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns and all those acting in active concert or participation with any of them, including any and all service providers who receive notice of this order, are enjoined from:

a. hosting, displaying, linking to, distributing, reproducing, publicly performing, selling, offering for sale, making available for download, streaming or making any other use of the 2017 IPL or any portion thereof in the United States;

b. taking any action that induces, causes or materially contributes to the direct infringement of TCL's rights in the 2017 IPL by any third party, including without limitation hosting, displaying, linking to, distributing, reproducing, publicly performing, selling, offering for sale, making available for download, streaming or making any other use of the 2017 IPL or any portion thereof in the United States; and

c. otherwise infringing TCL's copyright in the 2017 IPL in any manner, whether directly, contributorily, vicariously or in any other way.

2. Without limiting Paragraph 1 in any way, it is further ordered that upon receipt of this order, all service providers whose services will enable or facilitate Defendants' anticipated infringement are ordered to suspend all services with respect to www.smartcric.com, www.smartcric.eu, www.crickethdlive.com, and www.crickethdlive.pw, or any other website or domain that is redirected from the Websites and continues to distribute and publicly perform the 2017 IPL. This includes VeriSign, Inc., Cloudflare, Inc., Enom, Inc., Internet Domain Service BS Corp., Mikro VPS Kft., Contabo GmbH, Whoisguard, Inc., WhoisPrivacy Corp., VZW European Registry For Internet Domains ("EURid"), PW Registry Corporation, Tucows Inc., TLD Registrar Solutions Ltd., and IceNetworks Ltd. (d/b/a OrangeWebsite.com), as well as all other registries, registrars, hosts, privacy protection, name servers, entities used to advertise on or monetize the Websites, and also includes all providers who enable video delivery services to and from Defendants' Websites including all site acceleration providers, providers of video delivery resources, and providers of computer and network resources

through which video transits. Services may be restored to the Websites no earlier than 6:00 a.m. CDT on May 22, 2017. For the avoidance of doubt, the Court's intent is to ensure that Defendants' Websites be rendered offline, inaccessible and incapable of receiving or displaying audio or video signals between the date of this order and 6:00 a.m. CDT on May 22, 2017.

3. It is further ordered that the registries and registrars holding or listing the domain names smartcric.com, smartcric.eu, crickethdlive.com, and crickethdlive.pw (collectively "Domains"), or any other domain that is redirected from the Domains and continues to distribute and publicly perform the 2017 IPL, including but not limited to VeriSign, Inc., Enom, Inc., Internet Domain Service BS Corp., VZW European Registry For Internet Domains ("EURid"), PW Registry Corporation, Tucows Inc., and TLD Registrar Solutions Ltd., upon receiving actual notice of this order, shall immediately change the registrar of record for the domains to a holding account with GoDaddy.com, Inc., or any other registrar pursuant to agreement with TCL, provided by TCL at TCL's expense. Upon such transfer of the domains into a holding account, GoDaddy.com, Inc. or other designated registrar will hold the domains in trust for the court during the pendency of this action. After GoDaddy.com, Inc. or other designated registrar has effected this change, the registries and registrars who receive notice of this order, are ordered to keep the domains frozen and placed on lock status to prevent the domains from being modified, sold, transferred to another owner, or deleted until further order of this Court. This process shall effectively seize and impound the domains so their content is no longer accessible on the Internet until 6:00 a.m. CDT on May 22, 2017.

4. It is further ordered that Defendants and their agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns and all those acting in active concert or participation with any of them are enjoined from effecting assignments or transfers, forming new

entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth herein.

5. TCL is not required to post any bond prior to the issuance of this temporary restraining order.

6. TCL shall include a copy of this order in any correspondence it sends to any person or entity it believes is acting in active concert or participation with any of Defendants, including without limitation VeriSign, Inc., Cloudflare, Inc., Enom, Inc., Internet Domain Service BS Corp., Mikro VPS Kft., Contabo GmbH, Whoisguard, Inc., WhoisPrivacy Corp., VZW European Registry For Internet Domains ("EURid"), PW Registry Corporation, Tucows Inc., TLD Registrar Solutions Ltd., and OrangeWebsite.com, and any other person or entity who provides services with respect to the Websites or Domains, or any other website or domain that is redirected from the Websites or Domains and continues to distribute and publicly perform the 2017 IPL

7. TCL may apply to this Court for modifications of this Preliminiary Injunction as appropriate.

IT IS SO ORDERED.

Entered this 5TH day of May, 2017 at 2:30P.M. CDT.

Ewing Werlein, Jr.
United States District Judge